

June 17, 2019

Ms. Michelle Carey, Chief
Media Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Comments to Media Bureau on Google Fiber's Amended Petition for Limited Waiver of Accessible User Interfaces Requirements (DA 19-430)

Dear Michelle Carey:

On behalf of the under-signed consumer organizations and academic accessibility research center, the American Council of the Blind (ACB) welcomes the opportunity to comment on the Federal Communications Commission (Commission) request for comments on Google Fiber's amended petition for limited waiver of accessible user interfaces requirements (DA 19-430).

For nearly ten years, We have worked to codify and implement the 21st Century Communications & Video Accessibility Act (CVAA)(PL 111-260). We believe the CVAA has largely made video content and equipment accessible for individuals who are blind and visually impaired. The increased amounts of accessible video content and equipment is directly related to the CVAA requirements and the collaboration between the Commission, industry, and the disability community. As we near the tenth anniversary of the CVAA, we remain committed to protect the requirements of the CVAA and to collaborate with industry whenever possible to ensure the most accessible video experience for all consumers.

ACB is a leading national grassroots consumer-based advocacy group for Americans who are blind and visually impaired. Comprised of over 70 state and special-interest affiliates, The American Council of the Blind strives to increase the independence, security, equality of opportunity, and quality of life for all blind and visually impaired people.

Background

The CVAA was signed into law in October 2010. In October 2013, the Commission adopted rules to make user interfaces and video programming guides and menus accessible on televisions, set-top boxes, and other devices under the authority of the CVAA, Sections 204 and 205. As noted by the Commission's public notice filed on May 16, 2019, Section 79.108 of these rules requires that on-screen text menus and guides provided by navigation devices for the display or selection of multichannel video programming must be audibly accessible in real time upon request by individuals who are blind and visually impaired, if achievable. Multichannel video programming distributors (MVPDs) that lease or sell navigation devices, as well as navigation device manufacturers, are responsible for compliance with these rules, which set a compliance deadline of December 20, 2016, and a later compliance deadline of Dec. 20, 2018,

for mid-sized and smaller MVPDs, including Google Fiber. Google Fiber filed a petition for a waiver on Dec. 19, 2018, and an amended petition for a waiver on May 13, 2019.

Concerns

Our primary concern is that Google Fiber designed a system that is not accessible. Google Fiber made the decision to implement this inaccessible system, despite the CVAA being enacted in 2010, and being given five years to come into compliance. In either the petition or amended petition, Google Fiber did not demonstrate an unreasonable burden or harm which resulted in their lack of compliance with these regulations, nor did Google Fiber demonstrate what efforts it previously undertook to bring its system into compliance. We would be remiss by not acknowledging that Google Fiber has received a two year waiver from these regulations as a small MVPD already.

Additionally, Google Fiber stated its beliefs on which accessibility features are more important to consumers numerous times in both its petition and amended petition. We and other disability organizations worked tirelessly with industry partners and the Commission to codify these accessibility requirements into the CVAA and corresponding regulations, because they are all important to the full enjoyment and user experience of video programming. Google Fiber is incorrect to assume what video description requirements for accessible user interfaces are more beneficial to consumers, especially when those beliefs have not been cultured through dialog and testing with the disability community, specifically persons who are blind and hard of hearing and who have the most to gain by Google Fiber complying with federal regulations.

Google Fiber filed the original petition one day before the regulations were to go into effect and the amended petition five months later. During this time, Google Fiber offered no additional information to what system will replace the legacy system, and nor did it answer the question of how it will ensure accessibility on the future system when implemented. In fact, in the amended petition filed on May 13, 2019, Google Fiber stated that it could make activating video description and adjusting the presentation and display of closed captioning through the Google Fiber app audibly accessible through the native and third-party accessibility functions of the mobile devices on which the app runs in a matter of months. We are glad that Google Fiber has identified this readily achievable accessibility remedy, however, this admission raises serious questions and concerns to Google Fiber's commitment to providing accessible products and services, including: why did Google Fiber not conduct an accessibility review to identify this solution prior to the Dec. 20, 2018, compliance deadline; upon discovering this readily achievable solution, what steps has Google Fiber taken toward implementation already; and, how will Google Fiber amend its internal process to ensure that a higher priority is given to universal design and accessibility compliance going forward?

Conclusion

We are resolutely committed to ensure that video content and products comply with the CVAA and subsequent regulations, at minimum, to best serve the needs of the disability community in order to lead independent lives with equality of opportunity for all. To this end, we stand ready to work collaboratively with Google Fiber, and all other industry partners, to ensure their products meet the needs of all consumers. We thank the Commission for the opportunity to weigh in on this important issue. If you have questions pertaining to these comments, or need further information, please do not hesitate to contact ACB. We appreciate the opportunity to work with the Commission toward promoting true universal access, and we look forward to working with the Commission and all industry partners as we move into the second decade of the CVAA.

Sincerely,



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